

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States Courts
Southern District of Texas
FILED

JAN 23 2019

David J. Bradley, Clerk of Court

THE UNITED STATES OF AMERICA

v.

KENNETH WARREN FOOSE, II,

§
§
§
§
§

CRIMINAL NO.

C-19-0085

INDICTMENT

At all times relevant to this Indictment:

1. KENNETH WARREN FOOSE, II ("FOOSE") was a resident of Las Vegas, Nevada.
2. FOOSE was the owner and operator of "Exotic Pets, LLC", a business located in Las Vegas, Nevada.
3. The Endangered Species Act, 16 U.S.C. § 1538(a)(1)(E), provides that it is "unlawful to deliver, receive, carry, transport, or ship, by any means whatsoever and in the course of a commercial activity, any such species listed as endangered pursuant to section 1533 of this title." The Galapagos tortoise, (*Geochelone nigra* or *Chelonoidis niger*) is listed as endangered.
4. All Galapagos tortoises are classified to species as *Geochelone nigra* under the U.S. Endangered Species Act, and as *Chelonoidis niger* under the Convention on International Trade in Endangered Species of Flora and Fauna ("CITES").
5. The Galapagos tortoise is the largest tortoise species on the planet and can

grow to weigh as much as 550 pounds. They are among the longest lived vertebrate animals in the world. The average lifespan of a Galapagos tortoise is 100 years. According to National Geographic, the oldest recorded Galapagos tortoise lived to be 152 years of age. They are herbivores, grazing on grass, leaves, and cactus. A slow metabolism and large internal stores of water mean they can survive up to a year without eating or drinking. The Galapagos tortoise is indigenous to the Galapagos Islands of Ecuador. The U.S. Endangered Species Act lists the entire world population of Galapagos tortoises as endangered, wherever they are found. CITES lists the Galapagos tortoise as an Appendix I species, meaning international commercial trade in the species is prohibited.

6. The Lacey Act, 16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B), makes it a crime to knowingly engage in conduct that involves the sale or purchase of, the offer for sale or purchase of, or the intent to sell or purchase fish or wildlife in interstate commerce with a market value in excess of \$350 knowing that the fish or wildlife was taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any United States law or regulation.

THE GRAND JURY CHARGES THAT:

COUNT ONE

8. Paragraphs 1 through 7 are incorporated by reference and re-alleged as if fully set forth herein.

9. On or about May 17, 2017, in the Southern District of Texas, and elsewhere within the jurisdiction of the Court, the defendant,

KENNETH WARREN FOOSE, II,


did knowingly engage in conduct that involved the sale, offer for sale, and intent to sell wildlife with a market value in excess of \$350, that is, a Galapagos tortoise (*Geochelone nigra*), and did knowingly acquire, sell, and transport such wildlife in interstate commerce, knowing that the wildlife was transported, possessed, and sold in violation of and in a manner unlawful under the laws and regulations of the United States, specifically, the Endangered Species Act, 16 U.S.C. §§ 1538(a)(1)(E), and 1538(a)(1)(F).

In violation of Title 16 United States Code, Sections 3372(a)(1), and 3373(d)(1)(B)

A TRUE BILL:
ORIGINAL SIGNATURE ON FILE
FOREPERSON OF THE GRAND JURY

RYAN K. PATRICK
UNITED STATES ATTORNEY

By:


ROBERT D. THORPE, JR.
Assistant United States Attorney